REMARKS

This amendment is responsive to the Office Action mailed February 2, 2006 in connection with the above-identified patent application. In that Action, prosecution of the claims was restricted under 35 U.S.C. § 121. More particularly, according to the Examiner, claims 1-9 and 15-23 are drawn to a software program, resource allocation, and automatic memory within a system, classified in class 707, sub-class 9, while 10-14 are drawn to a product including a storage medium readable embodying one or more executable instructions to perform/prepare a user session while traversing an object graph, classified in class 707, sub-class 205.

Applicants respectfully traverse the restriction requirement.

Claims Are Not Combination/Sub-Combination:

It is respectfully submitted that the restriction requirement set out by the Examiner in the Office Action is not proper because the claims pending in the instant application, as grouped by the Examiner, do not fall into the combination/sub-combination format. MPEP § 806.05(a) defines "combination" as an organization of which a sub-combination or element is a part.

In the present application, claims 10-14 were considered by the Examiner to be a sub-combination of claims 1-9 and 15-23. However, article claims 10-14 stand on their own as a complete claim set (base claim 10 and dependent claims 11-14) and form no element or part of the method recited in the first claim set including claims 1-9 or the second claim set including claims 15-23 reciting a system.

The Restriction is Improper:

According to the Patent Laws, an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct. However, if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. (MPEP § 803).

The MPEP sets out criteria for restriction between patentably distinct inventions. They are two and include:

A. The inventions must be independent or distinct as claimed; and,

B. There must be a serious burden on the Examiner if restriction is (not) required. (MPEP § 803).

The Examiner has taken the position of a separate classification, or separate status in the art, or a different field of search of the claims in the Action. However, applicants have reviewed the class definitions for class 707, sub-class 9 and claims 707, sub-class 205 and disagree that there would be a burden if restriction is not required. Class 707/9 relates to privileged access while class 707/205 relates to file allocation. Independent claim 1 uses the language of "releasing" one or more external resource references while independent claim 10 uses the language "deallocating" resources. It is respectfully submitted that the Examiner may have improperly classified these claims based on some minor differences in claim language and that the Examiner can search and examine the entire application without serious burden.

New Claims 24-32:

Applicants have added new claims 24-32 which relate to original application claims 1-9.

It is respectfully requested that new claims 24-32 be considered together with original application claims 1-9 and 15-23.

Election

For purposes of advancing prosecution, applicants elect claims 1-9 and 15-23 of Group I for prosecution.

This election is made with traverse.

CONCLUSION

In view of the above amendments, comments, and arguments presented, applicants respectfully submit that all pending claims are patentably distinct and unobvious over the art of record.

Allowance of all pending claims and early notice to that effect is respectfully requested.

Respectfully submitted,

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CERTIFICATE OF MAILING OR TRANSMISSION

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

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